

# INFORMATION LETTER

Not for  
Publication

NATIONAL CANNERS ASSOCIATION

For Members  
Only

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## MINIMUM WAGE LAW INVALID

### New York Statute Held Unconstitutional by Five to Four Decision

In a decision of far-reaching importance the Supreme Court on June 1st by a five-four vote declared unconstitutional a New York statute regulating the minimum wages to be paid to women employed in that State.

The Court in reaching this conclusion relied upon its earlier decision in the case of *Adkins v. Childrens Hospital*, in which in 1923 it struck down a similar statute enacted by Congress for application in the District of Columbia on the grounds that it was an interference with liberty of contract and thus a violation of the due process clause. The earlier District of Columbia law provided for the establishment of minimum wages based upon the cost of living necessary to maintain health. The Supreme Court had declared this to be arbitrary and unreasonable, in that it gave no consideration to the value of the services rendered. The New York Act, in seeking to avoid this objection, provided for the establishment of minima which would approximate the fair and reasonable value of the services rendered. On this ground proponents of the law attempted to distinguish the earlier *Adkins* decision.

In an opinion rendered by Mr. Justice Butler, the majority of the Court held that the New York law was not distinguishable from the earlier Act of Congress. They adopted the construction placed upon the Act by the New York Court of Appeals to the effect that here, too, the minimum wages established were based, at least in part, upon the cost of living.

The opinion of Mr. Butler goes much further than this, however, and seems to indicate that a State is wholly without power to regulate the minimum wages paid to adult women employees. In discussing the *Adkins* decision, he stated:

"The decision and the reasoning upon which it rests clearly show that the State is without power by any form of legislation to prohibit, change or nullify contracts between employers and adult women workers as to the amount of wages to be paid."

Further along in his opinion he again referred to the *Adkins* case thus:

"The dominant issue in the *Adkins* case was whether Congress had power to establish minimum wages for adult women workers in the District of Columbia. The opinion directly answers in the negative. The ruling that defects in the prescribed standard stamped that Act as arbitrary and invalid was an additional ground of subordinate consequence."

This opinion and the decisions of the Supreme Court in the *Schechter* and *Guffey* cases (involving the constitutionality of the N. R. A. and the *Guffey* Coal Act respectively)

seem to foreclose, for the present at least, any regulation of wages in local industries as distinguished from those engaged in interstate commerce. The latter two decisions held that the Federal Government could not constitutionally regulate such local industries. (For discussion of the *Guffey* decision see INFORMATION LETTER of May 23rd at page 4955.) The present case holds that the police power of the States likewise does not extend to the subject of wages.

The importance of this decision is emphasized by the fact that various other States have minimum wage laws. The States of Connecticut, Illinois, Massachusetts, New Hampshire, New Jersey and Rhode Island have statutes almost identical with that of New York, and these States appeared before the Supreme Court as *amici curiae* and argued for the validity of the New York law.

Mr. Chief Justice Hughes, in a dissenting opinion concurred in by Justices Brandeis, Stone, and Cardozo, declared that the New York law was clearly distinguishable from the earlier statute voided in the *Adkins* case, and that nothing in the Federal Constitution prohibited the enactment of this statute.

Mr. Justice Stone also wrote a dissenting opinion in which he was joined by Justices Brandeis and Cardozo. He stated that the distinctions between the New York and the earlier law should not be the sole basis of a decision of validity. Such a regulation is clearly within the scope of the States' police power, and the Fourteenth Amendment does not render it invalid. He declared:

"It is difficult to imagine any grounds, other than our own personal economic predilections, for saying that the contract of employment is any the less an appropriate subject of legislation than are scores of others, in dealing with which this Court has held that legislatures may curtail individual freedom in the public interest."

### Billhead Proves Misleading

In last week's INFORMATION LETTER attention was called to the misleading appearance of bills sent to prospective subscribers by the Economic Associates, 91 Wall Street, New York City. At the top of the bills is the heading "National Canners' Economic Service," printed in larger type than any other words appearing on the stationery.

Proof of the misleading nature of the heading arrived at the Association's office just after the INFORMATION LETTER was published. This proof was an envelope addressed to the National Canners Association and containing a bill rendered by the Economic Associates to a firm in the Far West, on which the firm had made the notation "Do not wish to subscribe to this service."

As stated in last week's INFORMATION LETTER, the Association desires to get information as to the extent to which its members have been billed for the service offered by the Economic Associates.

## EXPORTS AND IMPORTS OF CANNED FOODS

Statistics on the exports of the principal canned foods have been published monthly in the INFORMATION LETTER. With this issue is begun the publication of imports of those canned products for which separate figures are available. The following table furnishes statistics for April and the January-April period in 1936, along with comparative figures for 1935.

EXPORTS	April, 1935		April, 1936		Jan.-April, 1935		Jan.-April, 1936	
	Pounds	Value	Pounds	Value	Pounds	Value	Pounds	Value
Canned meats, total.....	1,282,832	\$445,118	870,978	\$269,541	5,218,402	\$1,790,993	4,033,987	\$1,216,392
Beef .....	265,736	91,195	99,850	27,987	1,044,952	350,322	613,590	178,131
Pork .....	865,048	318,568	530,817	182,357	3,528,753	1,294,899	2,458,253	804,478
Sausage .....	81,212	21,577	98,103	25,090	351,828	88,081	397,213	106,914
Other .....	70,836	13,778	142,208	34,107	292,869	57,691	564,931	126,867
Canned vegetables, total.....	1,340,609	109,339	1,730,788	133,482	6,988,370	629,100	7,964,449	698,163
Asparagus .....	110,500	13,741	170,264	23,930	2,020,384	246,916	2,170,261	248,871
Baked beans and pork and beans .....	336,697	21,154	528,176	27,778	1,454,079	79,367	1,802,891	94,625
Corn .....	174,395	12,718	157,958	11,683	539,546	45,084	651,055	48,256
Peas .....	85,730	7,660	154,296	11,619	535,131	47,004	758,500	59,550
Soups .....	161,391	18,193	239,185	22,010	608,802	72,387	691,618	68,741
Tomatoes .....	68,848	5,775	86,648	6,741	699,582	44,878	451,235	30,819
Other .....	403,048	30,098	394,261	29,721	1,130,846	93,464	1,438,889	111,301
Condensed milk .....	717,137	92,538	246,257	27,469	2,657,829	342,859	880,280	109,157
Evaporated milk .....	3,267,006	223,067	1,764,970	127,879	13,469,181	904,136	8,756,803	627,717
Canned fruits, total.....	8,796,905	701,069	12,864,029	934,334	70,607,003	5,214,014	91,859,830	6,395,503
Apples and applesauce.....	415,823	18,015	878,908	37,279	3,034,770	133,318	6,447,827	274,485
Apricots .....	363,055	27,328	645,817	47,695	1,786,896	149,683	4,830,363	351,075
Berries, other .....	31,888	2,622	57,840	6,790	138,574	14,353	304,640	33,578
Cherries .....	45,959	5,770	139,952	13,801	325,493	37,730	455,922	53,960
Fruits for salad .....	2,372,083	253,531	1,326,201	137,326	9,332,056	1,012,777	7,741,935	820,255
Grapefruit .....	846,012	46,672	2,577,189	167,948	17,433,706	987,663	16,225,897	1,004,533
Loganberries .....	15,736	1,341	232,678	18,860	983,680	70,279	718,808	53,418
Peaches .....	882,293	63,938	2,813,844	190,523	9,941,358	732,886	27,734,190	1,779,654
Pears .....	2,032,741	148,095	2,399,965	160,269	22,577,904	1,673,529	19,792,935	1,380,830
Pineapple .....	1,596,820	116,326	1,352,901	116,247	4,120,518	316,552	6,096,426	517,746
Prunes .....	60,554	4,710	438,734	37,596	246,644	23,027	1,510,887	125,969
Other .....	133,941	12,721			685,324	62,217		
Canned fish, total.....	5,767,556	674,700	3,143,530	247,647	32,357,566	3,560,728	25,243,630	2,407,413
Mackerel .....	25,245	1,346	61,180	3,546	954,018	45,499	224,707	12,724
Salmon .....	3,913,625	544,077	543,827	76,309	20,168,661	2,708,306	7,731,053	1,305,623
Sardines .....	1,625,270	98,840	2,317,772	126,631	10,065,667	626,902	15,703,467	832,151
Shrimp .....	190,810	27,349	221,526	32,970	908,388	143,825	1,269,752	202,021
Shellfish, other .....								
Other .....	12,606	3,088	17,427	3,174	260,832	36,196	86,521	14,967
IMPORTS								
Canned meats .....	9,504,668	649,496	11,905,691	1,142,272	25,900,434	1,756,812	34,807,237	3,452,632
Condensed and evaporated milk .....	53,153	4,745	188,271	7,322	100,408	8,433	560,958	22,680
Canned fish, in oil:								
Sardines .....	1,524,047	182,989	1,813,984	204,865	8,581,426	1,033,736	10,352,297	1,318,724
Anchovies .....	254,160	92,143	99,996	36,537	741,027	262,004	716,267	266,744
Tuna .....	699,961	103,076	919,580	151,265	2,563,919	395,718	2,854,575	445,426
Other .....	41,456	11,908	36,549	11,430	141,802	46,981	173,526	56,855
Canned shellfish:								
Crab meat .....	884,613	269,341	425,844	119,546	3,361,522	1,053,110	2,866,465	938,119
Clams and oysters .....	106,143	25,341	102,496	20,540	443,473	109,497	534,355	119,111
Lobsters .....	21,138	8,123	26,857	8,656	91,494	35,078	87,928	36,092
Other canned fish .....	1,360,959	97,677	1,818,131	133,063	4,970,149	306,075	7,221,176	568,948
Canned vegetables:								
Peas .....	31,828	2,774	39,603	1,758	458,384	34,593	112,900	8,344
Mushrooms .....	29,159	9,228	26,026	7,875	228,654	72,884	110,695	35,216
Tomatoes .....	7,123,864	279,318	3,762,115	143,536	22,079,079	870,846	12,884,434	519,800
Tomato paste and sauce.....	876,843	83,992	387,678	39,067	4,816,683	366,888	2,097,055	203,320
Other .....	11,744	620	25,316	1,802	55,141	3,241	96,311	5,275
Canned pineapple .....	852,900	37,253	616,402	29,444	5,007,928	249,706	2,136,128	98,386

## The Utah Tomato Disease Situation in 1935

The April 1, 1936, issue of the Plant Disease Reporter contains a detailed review of the prevalence of curly top, verticillium wilt, bacterial canker and virus diseases of to-

matoes in Utah during 1935. Copies of this publication may be obtained from the Division of Mycology and Disease Survey, Bureau of Plant Industry, U. S. Department of Agriculture, Washington, D. C.

## STANDARDS FOR PRESERVES

## Industry Proposes to Embody Definitions for Products in Trade Practice Rules

Definitions of (1) preserves, fruit preserves, jam and fruit jam, (2) jelly and fruit jelly, and (3) apple butter are incorporated in the trade practice rules for the preserve-manufacturing industry which will be the subject of hearings to be held by the Federal Trade Commission at Washington on June 15th, Chicago on June 18th, and Seattle on June 24th.

The proposed rules were submitted by the National Preservers Association under the trade practice conference procedure of the Federal Trade Commission. In contrast to proposals from other industries, which have usually embodied a long list of rules, the preservers submitted only three rules as follows:

**RULE 1.**—The practice of selling, advertising, describing, branding, marking, labeling or packing of fruit preserves, fruit jams, fruit jellies or apple butter, or any simulation thereof, in a manner which is calculated to or has the tendency and capacity or effect of misleading or deceiving purchasers, prospective purchasers or the consuming public with respect to the character, nature, content, grade, quality, quantity, substance, material, preparation or manufacture of such product, or in any other material respect, is an unfair trade practice.

For the purpose of this rule:

(a) Preserve, fruit preserve, jam, fruit jam, shall be understood to mean the clean, sound product possessing definite characteristic flavor of the preserved fruit named on the label, made by cooking to a suitable consistency properly prepared fresh fruit, cold packed fruit, canned fruit, or a mixture of two or all of these with sugar or with sugar and water, with or without spice and/or vinegar or harmless organic acids other than acids or acid salts generally recognized as chemical preservatives, and in the preparation of which not less than forty-five pounds of actual fruit are used to each fifty-five pounds of sugar. In the case of fruits deficient in pectin, or whose composition or texture prevent the preparation of preserves or jam as defined herein of the desired consistency, pectin or pectinous material may be added; provided, however, that when pectin or pectinous material is added as herein provided, the ratio of not less than forty-five pounds of fruit to each fifty-five pounds of sugar shall be maintained, and the finished product containing such added pectin shall contain not less than sixty-eight per centum water-soluble solids derived from the fruit and sugar used in its manufacture, as determined by refractometer at twenty degrees centigrade without correction for the insoluble solids present.

(b) Jelly, fruit jelly, shall be understood to mean the clean, sound, semisolid, gelatinous product possessing definite characteristic flavor of the fruit named on the label, made by concentrating to a suitable consistency the strained juice, or the water extract, from fresh fruit, from cold-packed fruit, from canned fruit, or from a mixture of two or all of these with sugar. In the case of fruits whose composition prevents the preparation of jelly of the proper texture the necessary quantity of pectin or pectinous material and/or harmless organic acids other than acids or acid salts generally recognized as chemical preservatives may be added; provided, however, that such jelly containing said pectin or pectinous material or added acidulents shall contain not less than sixty-five per centum water-soluble solids derived from the fruit and sugar used in its manufacture, as determined by refractometer at twenty degrees centigrade,

and its composition shall correspond to not less than fifty pounds of actual pure fruit juice, exclusive of added water, to each fifty pounds of sugar in the original batch.

(c) Apple butter shall be understood to mean the clean, sound product made by cooking with sugar or apple juice, or either fresh, cold-packed, canned, or evaporated, to a homogeneous semisolid consistency with or without vinegar, salt and spice, or harmless organic acids other than acids or acid salts generally recognized as chemical preservatives. Apple butter shall contain not less than forty-three per centum water-soluble solids as determined by refractometer at twenty degrees centigrade without correction for the insoluble solids present, and be prepared from not more than twenty pounds of sugar to each fifty pounds of fresh apples, or its equivalent in cold-packed, canned, or evaporated apples, exclusive of the cores and skins.

(d) Corn syrup preserve, corn syrup jam, corn syrup jelly, corn syrup apple butter, shall be understood to mean preserves, jam, jelly or apple butter, as the case may be, as defined in Paragraphs (a), (b) and (c) of this Rule, but in the manufacture of which products corn syrup is substituted in whole or in part for sugar.

(e) Honey preserve, honey jam, honey jelly, shall be understood to mean preserve, jam or jelly, as the case may be, as defined in Paragraphs (a) and (b) of this Rule, but in the manufacture of which products honey is substituted for sugar.

**RULE 2.**—The practice of selling or offering for sale of an imitation fruit preserve, fruit jam, fruit jelly, or apple butter, without disclosure of the fact that the product is such imitation, is deceptive to the public and is an unfair trade practice.

**RULE 3.**—Withholding from or inserting in the invoice statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, with the purpose or effect of misleading or deceiving purchasers or prospective purchasers, is an unfair trade practice.

## VARIETAL NAME ON LABEL

## Ruling on "Baby Lima Beans" Illustrates Principle to be Followed

In enforcing the Food and Drugs Act the regulatory officials take the position that labels on commercial packages of foods must be so designed that they will not give consumers the wrong impression in any respect regarding the contents of the package. In following out this general principle it sometimes happens that varietal names have been adopted by seedsmen which are not appropriate for labels of canned foods unless so qualified that they will not give wrong impressions to consumers. The following announcement just received from the Food and Drug Administration is an illustration of this general principle:

A recent comprehensive consumer survey indicates that terms such as "Baby," "Tiny," "Midget," and the like on canned lima bean labels connote a young, tender, green bean.

Accordingly, the use of such terms on lima beans which do not meet the above requirements is regarded as a misbranding under the Food and Drugs Act.

It is apparent that the expression "Baby Lima Beans" has a well-recognized varietal significance. Objection will not therefore be raised to the labeling of these beans to show their variety provided the term "Baby" is plainly and conspicuously qualified in such a manner that consumers will not expect young, tender, green beans when the beans in question are actually at a more advanced stage of maturity.



### LABEL SUGGESTIONS

#### Recipes and Directions for Serving Proposed as Helpful to Consumers

The Association's Labeling Committee has received various suggestions for label improvements, which, although not within the scope of the work on which the Committee is primarily engaged, will be of interest to canners.

Among the suggestions are the use on the label of recipes or directions for serving and the use of vignettes showing the appearance of the product when served.

Requests received by the Home Economics Division for information on how to prepare canned foods for the table show that a simple recipe on the label is always appreciated. A series of suggestions for serving a product in several different ways without specific directions might be used in place of or supplementary to a recipe. If butter or cream is particularly good as an addition to any one product, a definite suggestion to use one or both would likewise be helpful.

The fact that canned foods are already cooked and ready to eat as they come from the can is not always known by women, and a statement to this effect on the label is helpful. If the canned foods are to be served hot the statement may say that only enough heat need be applied to heat them thoroughly as no further cooking is needed.

Women have expressed their appreciation of a vignette on the label showing the appearance of the food when ready to serve, especially if care is taken to have the colors in the vignette true to the color of the product as prepared for the table.

### Fruit and Vegetable Market Competition

Carlot Shipments as Reported by the Bureau of Agricultural Economics, Department of Agriculture

	Week ending			Season total to	
	May 30	May 30	May 23	May 30	May 30
VEGETABLES					
Beans, snap and lima	372	288	297	8,239	6,346
Tomatoes	1,790	1,480	1,593	12,518	10,645
Green peas	360	139	263	3,882	3,875
Spinach	10	5	10	5,438	7,391
Others:					
Domestic, competing directly	3,304	3,425	4,949	136,670	146,972
Imports competing—					
Directly	0	1	1	94	168
Indirectly					
FRUITS					
Citrus, domestic	3,442	2,866	2,974	107,610	95,725
Imports	5	16	18	324	564
Others, domestic	2,204	1,157	1,240	26,837	26,733

### Marketing California Asparagus—1935

The Bureau of Agricultural Economics, Department of Agriculture, has just issued a mimeographed publication entitled "Marketing California Asparagus, Season of 1935." This contains information on distribution of acreage by ages and acreage for cutting in 1936 with comparisons of acreage cut in previous years. Carlot shipments, range of selling prices to jobbers in different large cities, distribution of California asparagus shipments, estimated commercial seasonal farm price received, estimated commercial yield and production are also given.

### Pea Crop and Pack in Maryland

The following table furnishes a record of the canning pea crop and pack in Maryland since 1925. It is the first of a series designed to give canners data for comparison with the current season. Other regions will be covered as the packing season progresses.

Year	Planted		Harvested		Yield per acre		Pack
	Acres	Acres	Lbs.	Cases	Actual Cases		
1925	.....	.....	11,600	1,800	82	956,000	
1926	.....	.....	8,800	2,000	95	840,000	
1927	.....	.....	8,000	2,800	123	935,631	
1928	.....	.....	10,500	1,950	98	1,030,151	
1929	.....	.....	12,400	2,250	118	1,469,000	
1930	.....	.....	14,000	530	29	399,918	
1931	.....	14,400	14,400	1,640	86	1,242,947	
1932	.....	11,550	11,550	1,200	60	689,316	
1933	.....	11,300	11,300	1,600	84	948,507	
1934	.....	13,500	11,500	2,200	140	1,610,465	
10 yr. aver.	.....	.....	11,405	1,771	89	1,012,194	
1935	.....	18,500	18,500	2,350	129	2,386,905	
1936	.....	16,300	.....	.....	.....	.....	

### Crop Conditions

**MAINE.** Rain needed seriously except in northeast Maine where moisture is excessive. Dry winds, cool nights, and frost have retarded growth.

**NEW YORK.** Many sections need rain badly. Light showers the first of the week. Weather has been generally cool until last few days. Corn planting making good progress.

**EASTERN SHORE MARYLAND.** Pea packing finished in this area with yields reported to be about 40 per cent of last year. During 1935 Maryland packed on an average of 129 cases per acre.

**INDIANA.** Good rains in extreme north Monday; otherwise need for rain acute in many areas, especially in south. Corn needing rain in many areas. Germination poor on account of drought.

**WISCONSIN.** A good rain in central Wisconsin helped condition of the pea crop materially. Peas in northern part of the state considerably later than last year but in good condition.

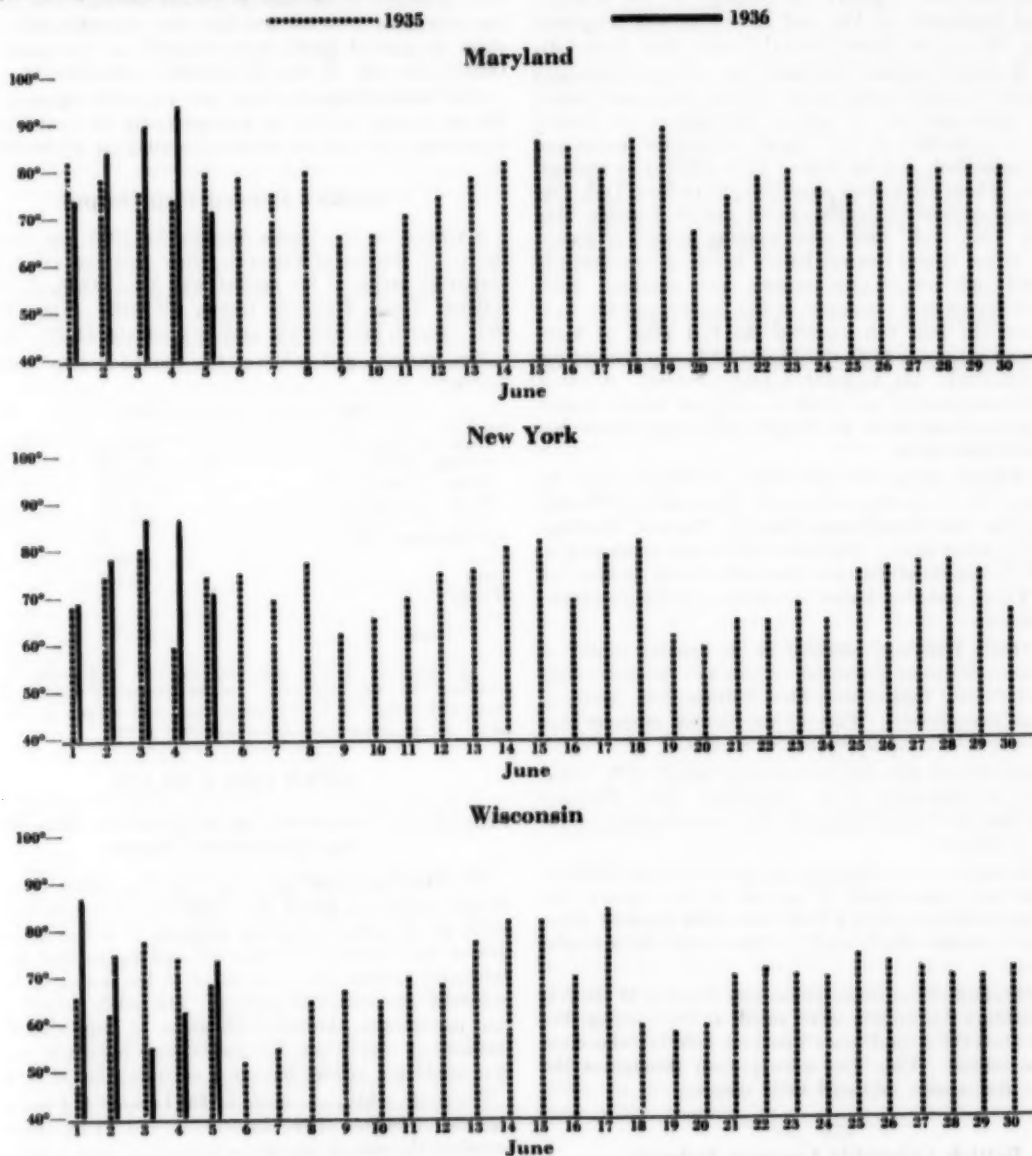
**MINNESOTA.** Pea seeding finished by June 1st. Stands and growing conditions are reported to be good. Crop expected to be about average. Corn plantings going in on schedule with good soil conditions.

The following table gives the average temperature and total rainfall for the principal pea growing districts for each of the last two weeks, as shown by the U. S. Weather Bureau reports for selected stations in these districts:

DISTRICT	Week ended			
	May 26, 1936		June 2, 1936	
	Temp.	Rain	Temp.	Rain
Maine	58	.3	56	.6
Western New York	58	.1	59	.2
Tri-States	69	.0	67	.5
South Central Ohio	67	.2	63	.1
Central Indiana	68	.2	65	.0
Central Illinois	70	.1	68	.0
Northern Illinois, Southern Wisconsin	66	.2	63	1.1
Southern Minnesota	67	1.3	69	.1
Northern Colorado	65	.0	65	.1
Northern Utah	61	.0	67	.5
Northwestern Washington	59	.1	59	.8
Southeastern Washington	64	.0	66	.0

# TEMPERATURES IN PEA CANNING DISTRICTS

The following charts show the effective growing temperatures for peas in Maryland, New York, and Wisconsin for June, 1935, and to date for June, 1936. They are based on reports from selected stations of the U. S. Weather Bureau in the three states. The "effective temperature" is the peak temperature adjusted to allow for the relation between peak temperature and hourly readings.



## Questions and Answers Relative to Tomato Production

A new bulletin just issued by the New Jersey State College of Agriculture at New Brunswick, Extension Bulletin 174, presents through 93 questions and answers a great deal of

pertinent information of particular interest to growers of tomatoes in that state.

### CANNED FOOD RECIPE CONTEST

#### First Prize in Nation-Wide Event is Won by California Woman

A recipe contest for the use of canned foods sponsored by the American Can Company and managed by the Women's National Exposition of Arts and Industries was completed on May 26th at the Grand Central Palace, New York City.

The Women's National Exposition of Arts and Industries sent contest blanks to club women all over the United States. Blanks were also sent to grocers throughout the United States. A committee of food experts judged the menus and recipes submitted, and six women were selected as regional winners. These six women were brought to New York City by the management of the Exposition, and on Tuesday, May 26, they "cooked-off" their prize winning menus, in groups of two, in the Grand Central Palace before a tremendously interested audience of men, women, and children. Each meal was served to a committee of five judges, and the meal considered the best was awarded the first prize of \$500. The second prize was \$300, third prize \$200, and each of the other contestants was awarded a prize of \$100. A check of equal denomination was given to each prize winner to give to the grocer from whom she bought the canned foods that she used in her menu.

Mrs. Alberta Moore of Santa Rosa, California, won the first prize; Mrs. F. D. Haynesworth of Miami Beach, Florida, second prize, and Mrs. Frances Maurine Irwin of Washington, D. C., third prize. The other prizes were awarded to Mrs. M. E. Smith of Dayton, Ohio, Mrs. Julia LeFlore of Dallas, Texas, and Mrs. Louise Gensheimer of Feeding Hills, Massachusetts.

Mrs. Oliver Harriman presided at the opening dinner of the Women's National Exposition of Arts and Industries held at Grand Central Palace, with Mrs. William Dick Spurborg acting as toastmistress. Part of the dinner program was broadcast over a national network of N. B. C.

A representative group of women were judges, with Isabel Ely Lord as chairman of the committee. Miss Florence Brobeck had the arrangements for the entertainment of the women in charge.

The six winners were fine types of American homemakers. They not only represented all sections of the country, but varied in experience from a bride less than nineteen years of age to a woman who is mother of four sons, the youngest seventeen.

The directors of the Home Economics Division of the National Canners Association were guests at the opening dinner and attended several other functions held in connection with the contest. They also were present throughout the day that the women prepared their menus.

### British Columbia Canning Industry

Production of canned fruits and vegetables, particularly tomatoes, in British Columbia, has declined in the last few years, according to a report from the United States vice consul at Vancouver.

Canadian statistics show that in 1929 the canneries of British Columbia processed 20 per cent of the total Canadian vegetable pack and in 1935 only 8 per cent. Marked

expansion of Ontario's canning industry has undoubtedly played an important part in this development, although higher labor costs in British Columbia and increased freight rates have been factors.

Before the depression, British Columbia canners marketed their products as far east as Saskatchewan. The situation has now been reversed and last year approximately 56,000 cases of canned foods were shipped to Vancouver from Ontario for sale in British Columbia and Alberta.

The British Columbia fruit and vegetable canning industry at present consists of approximately 35 establishments, representing an investment of approximately \$4,000,000.

### Alaska's Canned Fish Output

Statistics on the Alaska fisheries for 1935 just issued by the U. S. Bureau of Fisheries, show that the value of the output as prepared for market was \$31,230,646, divided as follows: Fresh, \$750,583; frozen, \$562,895; cured, \$1,950,403; canned, \$26,072,966; and by-products, \$1,893,799.

The quantity and value of the canned products were as follows:

Items	Cases *	Value
Salmon:		
Coho, or silver .....	190,177	\$1,217,234
Chum, or keta .....	852,928	3,269,071
Pink, or humpback .....	3,244,066	13,420,462
King, or spring .....	36,405	316,719
Red, or sockeye .....	809,546	7,544,650
Miscellaneous fish .....	22	225
Clams .....	29,643	197,581
Crabs .....	6,758	106,832
Shrimp .....	33	192
Total .....	5,169,578	\$26,072,966

\* The pack of salmon, miscellaneous fish, and crabs has been converted to "standard cases" of 48 one-pound cans, clams to "standard cases" of 48 five-ounce cans, and shrimp to "standard cases" of 48 five-and-three-fourths-ounce cans.

### OPEN PRICE PLANS

#### Feasible to Construct Useful Systems, Says Brookings Institution Report

The Brookings Institution has issued a report of a study of open prices in which the conclusion is reached that socially useful plans for giving publicity to prices and condition of sale could be constructed and maintained in many industries through the cooperation of the industries and an impartial governmental agency. The study found significant possibilities, through such plans, of improving the adjustment of supply and demand in some industries in a way that would not involve increased centralization of control.

The study, which was made by Dr. Leverett S. Lyon, executive vice-president of the Institution, and Victor Abramson, examines the various questions involved in open price reporting, including especially the effects on competition, on small business units, and on production and price stability.

No general support is found for the contention that small businesses need to depend chiefly on lower prices to maintain a competitive balance with those larger units which through advertising or other means are better known, and that the smaller ones would necessarily be weakened by an open price policy. It is pointed out that the inefficient must

be distinguished from the small when considering the effects of open prices. The report states that comparative studies for various periods do not reveal that mere size gives an industrial unit a favorable market position.

The effect of open price plans on competition, it is pointed out, might differ sharply among different industries. In certain industries, it would strengthen any potential tendency toward monopoly or price agreements, or support such degree of monopoly as already exists. In other industries, there are possibilities for improving competition and lessening discriminatory practices. Great care in permitting the use of open price plans is therefore recommended, but it is held the possibility that they may prove socially useful in some industries argues that experimentation with them be encouraged.

With regard to the influence of open price plans on the stability of output, the report says that, if they bring complete knowledge of market conditions to active competitors, greater stability in production is likely to result. Where, however, open price systems tend toward collective control and price maintenance, and where demand is changing, greater instability of production is likely to occur. Failure to reduce prices as demand falls reduces rather than stabilizes production. Stability of prices, under such circumstances, moreover, delays the translation of technical improvements into increased sales.

The recent Supreme Court decision in the Sugar Institute case is analyzed. In this connection constructive possibilities of reporting future price offers is suggested.

The report presents a detailed analysis of the problems of constructing open price plans of both practical usefulness and social utility, and there are outlined the tests of the applicability of open price plans to specific industries and the proper role of government in relation to open price plans.

# USE OF PETIT POIS

## Held Misbranding if Placed on Labels of No. 2 Sieve Size

Pea canners who have received requests for peas of No. 2 sieve under labels bearing the words "Petit Pois," will be interested in the following letter written under date of May 25, 1936, by Dr. P. B. Dunbar, Assistant Chief of the Food and Drug Administration:

Your letter of May 11 raises two questions as to the labeling of canned peas with size designations.

Your first question relates to the propriety of labeling peas of No. 2 sieve size as "Tiny Petit Pois" or "Tiny." A recent consumer survey indicates that present consumer understanding still reflects the opinion expressed by this Administration in Item 388, issued in 1923, namely, that the expression "Petit Pois" means very small peas, that is to say No. 1 sieve size. We believe that the term "Tiny Peas" carries the same meaning. Accordingly, the labeling of canned peas of larger sieve sizes with these designations would be regarded as misbranding under the Federal Food and Drugs Act. To make an additional label statement reading "No. 2 Sieve" would, we feel, not remedy the misbranding but rather would add to consumer confusion.

Your second question relates to the labeling of No. 3 sieve size peas as "Extra Sifted." You have expressed the opinion

that as far as trade practice is concerned the term "Extra Sifted" means No. 2 sieve size. This coincides with our own information. We have no very definite information as to consumer understanding with regard to the term "Extra Sifted," nor indeed, as to understanding of the sieve sizes themselves. Certainly, to the extent that these matters are understood by consumers, the labeling of No. 3 sieve size peas as "Extra Sifted" would constitute a misbranding.

From this letter it would appear that whatever trade demand there may be for "Petit Pois" labels on peas larger than No. 1 sieve size does not reflect the opinions of consumers. In this connection attention is again called to the fact that the individual or firm that actually makes the shipment in interstate commerce is responsible for the legality of the product under the Food and Drugs Act. The canner who ships under buyers' labels, therefore, is responsible for the legality of those labels.

# WHAT'S DOING IN CONGRESS

## Recess Over the Week of the Republican Convention Is Planned

It is now generally assumed that Congress will recess over the week of the Cleveland convention and that adjournment will come within two or three days after reconvening on June 15th.

The Senate is expected to pass the tax bill by the end of this week, after which it will go to conference, when it will become known whether the Administration will insist upon its original proposal to impose a heavy tax on undistributed corporate surpluses. If the House is not disposed to recede, the session may drag on indefinitely, or it is barely possible that the members may decide to put off the whole subject until January. The leaders at present seem to think that the conference report will be ready on the fifteenth and that it will be disposed of in a day or two. If it turns out that way, it is not likely that any other legislation will be acted upon that is not now in the conference stage, unless the White House intervenes in behalf of some such measures as the government's contracts and food and drug bills.

## Copeland Bill

The Rules Committee has yet to have a hearing on the subject of granting a special rule to bring the food and drug bill before the House. The bill is therefore not among those sure of being acted upon under Senator Robinson's tentative plan of putting aside all measures not now in the conference stage. Administration pressure might modify this plan, of course, and other considerations may arise that are not now evident in the general confusion that followed the sudden death of the Speaker.

## Tax Bill

The Senate has made rapid progress on the committee amendments to the tax bill, all of which are in line with the Finance Committee's original intention to revise the House bill drastically along the lines mentioned in previous issues of the INFORMATION LETTER. As this issue goes to press the most important amendment to be acted upon is the substitution of a flat 7 per cent on undistributed surplus for the higher graduated rates in the House bill.



### Price-Discrimination Bill

The Patman-Robinson bills are in conference and therefore may be still agreed upon under the tentative decision to consider only such legislation as is now in conference. In the meantime there have been some developments that may influence the final action. The Secretary of Agriculture has registered his belief that the proposed legislation would raise prices, and the Business Advisory Council of the Department of Commerce has disapproved the measure. It is rumored also that there is Administrative pressure to have farm and consumer cooperatives exempted from the bill. The odds on final enactment have therefore changed somewhat and are now about even.

### Government Contracts Bill

Under pressure from the Administration a modified Healey Bill has been reported favorably by the House Judiciary Committee and has a fair chance of enactment even in the present legislative jam. A rule has been promised, it is said, to bring it up for consideration in the House and it is also claimed that the Senate conferees are agreeable to having it substituted for the Walsh Bill, which has already been passed by the Senate.

The labor conditions on government contracts prescribed by the modified bill apply only to the primary contractor, except that goods for the government must not be produced under conditions that are insanitary, hazardous, or dangerous to the health of the workers. Compliance with safety, sanitary, and factory inspection laws of the state in which the work is done would be prima facie evidence of compliance in this respect.

Hours of labor of persons employed by the contractor must not exceed eight in one day or forty in one week, and wages are to be not less than those determined by the Secretary of Labor to be the prevailing minimum wages in the same or similar industries in the locality in which the materials are to be manufactured or furnished. Exceptions are to be made under certain conditions, but when longer hours are permitted the Secretary must set a rate of pay of not less than time and a half for the overtime.

There is a provision aimed at "bid peddling," and it is stipulated that the contractor is not to employ persons under 18 years of age nor employ convict labor. The bill does not apply to materials that may usually be bought in the open market unless specially manufactured to conform to particular specifications, nor to perishables or to farm products processed for first sale by the original producers.

### Lobby Bill Passed

A compromise lobby bill has been approved by Senate and House conferees that prescribes the nature of records that must be kept and reports filed by individuals and organizations soliciting and receiving funds for the purpose of influencing legislation and elections. It also requires the registration of persons who for pay attempt to influence legislation.

Section 6 of the compromise bill defines the application of the provisions as follows:

"Section 6. The provisions of this Act shall apply to any individual, partnership, committee (except a political committee as defined in the Federal Corrupt Practices Act, and duly organized State or local committees of a political

party), association, corporation, or any other organization or group of persons who by themselves, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicit, collect, or receive money or other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

"(a) The enactment or defeat of any legislation or appropriation by the Congress of the United States or the repeal or non-repeal of any existing laws of the United States, or adoption or defeat of any amendment to the Constitution of the United States.

"(b) To influence directly or indirectly the passage or defeat of any legislation or appropriation by the Congress of the United States.

"(c) To influence, directly or indirectly, the election or defeat of any candidate for any elective Federal office."

The bill also provides that it shall be the duty of government departments and agencies to put into effect rules and regulations requiring statements from persons engaging themselves for pay to influence government officials in such a way as to give any benefit or advantage to any private individual or corporation.

As a conference report has the right of way in both houses, it seems fairly likely that final approval will be obtained in spite of the present legislative confusion.

### Status of Other Bills

**EXTENSION OF AGRICULTURAL INVESTIGATION.**—The Johnson and Gearhart resolutions to include table and juice grapes, fresh fruits, and fresh vegetables within the scope of the Federal Trade Commission investigation of agricultural income have both been passed in their respective Houses, but in such a way that there are two separate resolutions with different numbers, thus creating a tangle that may not be straightened out in time for final approval.

**TYDINGS FAIR TRADE BILL.**—This Senate bill has not been acted upon by the House Committee and does not seem to have much chance to get out of the present jam.

**SUGAR LEGISLATION.**—The Jones-O'Mahoney resolution to continue in effect the Jones-Costigan sugar control law, except for the tax features, will apparently not be enacted unless special effort is made to save it.

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